

Response
Serial No. 09/175,522
Page 2

REMARKS

In the Office Action, the Examiner noted that claims 1-21 are pending in the application, claims 11-13, 15, and 21 are objected to, and claims 1-10, 14, and 16-20 stand rejected. In this response, all claims continue un-amended.

In view of the following discussion the Applicant respectfully submits that none of these claims now pending in the application are anticipated under the provisions of 35 U.S.C. § 102 or obvious under the provisions of 35 U.S.C. § 103. Thus the Applicant believes that all of these claims are now in allowable form.

Objections

The Examiner objected to claims 11-13, 15, and 21 as being dependent upon a rejected base claim.

The Applicant would like to thank the Examiner for pointing out allowable subject matter, but the Applicant respectfully submits that in view of the following discussion, none of the base claims now pending in the application are anticipated under the provisions of 35 U.S.C. § 102 or obvious under the provisions of 35 U.S.C. § 103. As such and for at least the reasons set forth herein, the Applicant also submits that the claims dependent upon the base claims are also not anticipated under the provisions of 35 U.S.C. § 102 or obvious under the provisions of 35 U.S.C. § 103 and are patentable thereunder.

As such, the Applicant respectfully submits that the basis for the Examiner's objections to Applicant's claims 11-13, 15, and 21 has been removed. Therefore, the Applicant respectfully requests that the objections to claims 11-13, 15, and 21 be withdrawn.

Rejections

A. 35 U.S.C. § 102

The Examiner rejected claim 1 under 35 U.S.C. § 102(e) as being anticipated by Lemieux (U.S. Patent 6,256,507). The rejection is respectfully traversed.

Response

Serial No. 09/175,522

Page 3

The Examiner alleges that regarding claim 1, referring to figures 1, 2A-2C, 4 and 6, Lemieux discloses an apparatus for providing synchronization signals to a telecommunications network comprising: a central synchronization management unit (i.e., mobile switching center MSC 14, Fig. 1) for distributing synchronization signals, and a synchronization distribution unit (i.e., base station 18, FIG. 1) connected to receive synchronization signals from the central synchronization management unit (i.e., mobile switching center MSC 14, Fig. 1) and to distribute the signals to at least one network element (i.e., mobile station 24, FIG. 1) (col. 2, line 60 to col. 5, line 1-38). The Applicant respectfully disagrees.

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim" (Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1983)) (emphasis added).

The Applicant submits that the Lemieux reference fails to teach, suggest or disclose each and every element of at least the invention as recited in the Applicant's claim 1, which specifically recites:

"An apparatus for providing synchronization signals to a telecommunications network comprising:
 a central synchronization management unit for distributing synchronization signals; and
 a synchronization distribution unit connected to receive synchronization signals from the central synchronization management unit and to distribute the signals to at least one network element." (emphasis added).

The Applicant's invention is directed to several embodiments of synchronization systems, wherein synchronization and management signals are carried over links between a single central synchronizing management unit and each synchronizing distribution unit, and between each synchronizing distribution unit and each network element, wherein each synchronizing distribution unit only receives signals from the single central synchronizing management unit. (See

Response

Serial No. 09/175,522

Page 4

Applicant's Specification, page 4, lines 21-24). In support of the Applicant's invention, at least with regards to claim 1 recited above, the Applicant in the Specification, specifically recites:

"The distributed architecture of the present invention, an architecture that distributes synchronization and management signals to synchronization distribution units which, in turn, distribute signals to network elements, reduces the number of links required for the distribution of these signals. That is, each synchronization distribution unit acts as a concentrator, preferably communicating with a plurality of network elements and thereby limiting the number of direct links to a central synchronization management unit." (See Applicant's Specification, page 6, lines 23-29).

It is clear from the Applicant's disclosure that the Applicant's invention is directed, at least in part, to a distributed architecture limiting the number of direct links to a central synchronization management unit while distributing synchronization signals to network elements. In the Applicant's invention, a single central synchronization management unit receives and distributes all of the clock signals. In further support of the Applicant's invention, the Applicant discloses:

"A central synchronization management unit 200 is connected to receive synchronization, or clock signals from a plurality of clock sources, such as a global positioning system (GPS) receiver 202 and a craft interface terminal (CIT) 204. The GPS receiver is connected to receive its clock from an antenna 206. The central synchronization management unit 200 selects one of the clock sources 202 or 204 as a primary source and the other as a secondary source." (See Applicant's Specification, page 8, line 27 through page 9, line 2).

"The central synchronization management unit 200 provides the synchronization distribution unit 210 with synchronization and management information through link 208. The synchronization distribution unit 210 passes the synchronization information to a plurality of network elements 212, ...214, through respective optical links 216, ...218." (See Applicant's Specification, page 9, lines 6-10).

"In general, the central synchronization management unit 200 provides interfaces for highly stable low error rate clock input signals such as GPS, Stratum 1 clocks, or other such inputs and provides, for example, Stratum 11 level output clock signals." (See Applicant's Specification, page 10, lines 1-3).

Response
Serial No. 09/175,522
Page 5

The Applicant's invention is directed, at least in part, to a single central synchronization management unit for distributing synchronization signals of various clock inputs to a synchronization distribution unit which in turn distributes the synchronization signals to a plurality of network elements.

There is absolutely no teaching, suggestion or disclosure in Lemieux for "a central synchronization management unit for distributing synchronization signals" and "a synchronization distribution unit connected to receive synchronization signals from the central synchronization management unit and to distribute the signals to at least one network element" as claimed in at least the Applicant's claim 1. The Examiner alleges that, in Lemieux, the MSC 14 of Fig. 1 teaches the central synchronization management unit of the Applicant's invention and that the base station 18 of FIG. 1 teaches the synchronization distribution unit of the Applicant's invention and that the mobile station 24 of FIG. 1 teaches the network element. The Applicant respectfully disagrees.

In contrast to the Applicant's invention, the invention of Lemieux teaches and is directed to a network synchronization system wherein information radiates from a GPS source wherein a GPS receiver is installed at each mobile switching center and base station of a wireless communication network. (See Lemieux, Abstract). In contrast with the Applicant's invention, Lemieux discloses:

"The synchronization system 12 supports three modes of operation relating to the generation of the synchronization clock pulse by the local clock modules 40 of the mobile switching centers 14 and base stations 18. In a first mode of operation, each local clock module 40 trains to the GPS receiver 54 supplied stratum 1 classified clock pulse to generate and output the synchronization clock pulse to the mobile switching centers 14 and base stations 18 having a corresponding stratum 1 classification. The supporting global positioning system 46 accordingly comprises the primary reference source (PRS) for synchronization information within the wireless communications network 10." (See Lemieux, col. 4, lines 31-42).

In this first mode of Lemieux, each mobile switching center and base station includes a GPS receiver for receiving a GPS signal. A local clock module of

Response

Serial No. 09/175,522
Page 6

each mobile switching center and base station is as such synchronized to the received signal from the supporting global positioning system. This mode of Lemieux is in direct contrast to the invention of the Applicant, at least with respect to claim 1, where a single central synchronizing management unit distributes received synchronization signals to each synchronizing distribution unit, and where each synchronizing distribution unit distributes received synchronization signals to each network element. In this mode of the invention of Lemieux, unlike in the invention of the Applicant, each mobile switching center and base station receives synchronization information directly from a clock source. The synchronization signal is not distributed from a central synchronizing management unit to each synchronizing distribution unit and from each synchronizing distribution unit to respective network elements.

Lemieux further teaches:

"In a second mode of operation, implemented when the GPS network 46 or the GPS receiver 54 fails to support primary reference source operation by generating the necessary stratum 1 classified clock pulse or perhaps because the synchronization manager functionality 52 of the transport network management system 28 in monitoring network 10 operation notices a degradation in timing tolerances below an acceptable level, the synchronization manager functionality coordinates a network change of the primary reference source designation from GPS to local clock. Each local clock module 40 then operates in a "hold-over mode" to generate the synchronization clock pulse for its node having a stratum 2 classification to the mobile switching centers 14 and base stations 18 based on its prior training to the no-longer available GPS receiver 54 generated stratum 1 classified clock pulse. Synchronization is maintained between each mobile switching center 14 and its connected base stations 18 to derive the system clock through the transmission of unidirectional synchronization information through the clock distribution system 44 and over the communications link 48. This second mode of operation thus implements a tree or linear network type topology (see, FIGS. 2B and 2C) on the synchronization system 12 with synchronization information originating at the local clock primary reference source and flowing downstream through the clock distribution system 44 to the local clock modules 40." (See Lemieux, col. 4, line 51 through col. 5, line 10).

Response

Serial No. 09/175,522

Page 7

In this second mode of the invention of Lemieux, when a GPS signal is not available, a local clock module of each mobile switching center and base station generates a synchronization clock pulse for its node based on its prior training to the no-longer available GPS signal. This mode of Lemieux is again in contrast with the invention of the Applicant. In the invention of the Applicant, when a clock or synchronization source is no longer available, the central synchronizing management unit selects an alternate clock or synchronization source to use to provide synchronization signals to each synchronizing distribution unit which distributes received synchronization signals to each network element. In the Applicant's invention, the central synchronizing management unit, the synchronizing distribution units, and the network elements do not generate a synchronization clock pulse for themselves.

Even further, in this mode of the invention of Lemieux, synchronization is maintained between each mobile switching center and its connected base stations to derive the system clock through the transmission of unidirectional synchronization information through the clock distribution system and over the communications link. For the rejection of the Applicant's claim 1, the Examiner equated the mobile switching center 14 of Lemieux with the central synchronization management unit of the Applicant's invention. The Examiner further equated the base stations of Lemieux with the synchronizing distribution unit of the Applicant's invention, and the mobile station of Lemieux with the network element in the Applicant's invention. If this is the case, this mode of the invention of Lemieux fails to teach, suggest or disclose the invention of the Applicant, at least with respect to claim 1. More specifically, in the Applicant's invention, a central synchronization management unit distributes synchronization signals to a synchronization distribution unit connected to receive the synchronization signals from the central synchronization management unit, and the synchronization distribution unit distributes the synchronization signals to at least one network element. In Lemieux, synchronization information originates at the local clock primary reference source of a mobile switching center (equated to

Response

Serial No. 09/175,522

Page 8

the central synchronization management unit of the Applicant's invention by the Examiner) and flows downstream through the clock distribution system to the local clock modules of base stations (equated to the synchronization distribution unit of the Applicant's invention by the Examiner). However, in Lemieux, the synchronization information originating at the local clock primary reference source of a mobile switching center and communicated downstream to the local clock modules of base stations is not communicated to the mobile station (equated to the network terminal of the Applicant's invention by the Examiner). As such, the invention of Lemieux, at least in this mode, also fails to teach, suggest or disclose "a central synchronization management unit for distributing synchronization signals" and "a synchronization distribution unit connected to receive synchronization signals from the central synchronization management unit and to distribute the signals to at least one network element" as claimed in at least the Applicant's claim 1.

Lemieux further teaches:

"In a third mode of operation, implemented when both the GPS and local clock primary reference sources are unavailable or perhaps because the synchronization manager functionality 52 of the transport network management system 28 in monitoring network 10 operation notices a degradation in timing tolerances below an acceptable level, the synchronization manager functionality 52 changes the primary reference source designation to PSTN 26 pulse code modulated (PCM) communication derived timing. Through the mobile switching center clock distribution system 44 connection 60 to the public switched telephone network 26, synchronization information is collected from the pulse code modulated voice/data communications links of the public switched telephone network to generate a synchronization clock pulse having a stratum 3E (E for enhanced) classification. The collected synchronization information is communicated by the clock distribution system 44 between the mobile switching centers 14 using the communications links 50 in order to derive a system clock. Synchronization is maintained between each mobile switching center 14 and its connected base stations 18 through the transmission of unidirectional synchronization information through the clock distribution system 44 and over the communications link 48. This third mode of operation thus similarly implements a tree or linear network type topology on the synchronization system 12 with synchronization information originating at the PSTN primary reference

Response

Serial No. 09/175,522

Page 9

source and flowing downstream through the clock distribution system 44 to the mobile switching centers 14 and base stations 18." (See Lemieux, col. 5, lines 10-38).

In this third mode of the invention of Lemieux, when a GPS signal and a local clock primary reference is not available, a synchronization manager functionality changes the primary reference source designation to a PSTN. This mode of Lemieux is again in contrast with the invention of the Applicant. In the invention of the Applicant, when a clock or synchronization source is no longer available, the central synchronizing management unit selects an alternate clock or synchronization source to use to provide synchronization signals to each synchronizing distribution unit which distributes received synchronization signals to each network element. In the Applicant's invention, a synchronization manager is not needed as in the invention of Lemieux.

Furthermore, a system clock is derived in this mode of Lemieux by distributing the collected synchronization information from the PSTN between the mobile switching centers using the the clock distribution system and the communications links. Synchronization is maintained between each mobile switching center and its connected base stations through the transmission of unidirectional synchronization information through the clock distribution system and over the communications link. Again, for the rejection of the Applicant's claim 1, the Examiner equated the mobile switching center of Lemieux with the central synchronization management unit of the Applicant's invention. The Examiner further equated the base stations of Lemieux with the synchronizing distribution unit of the Applicant's invention, and the mobile station of Lemieux with the network element in the Applicant's invention. Again, if this is the case, this mode of the invention of Lemieux fails to teach, suggest or disclose the invention of the Applicant, at least with respect to claim 1. More specifically, in the Applicant's invention, a central synchronization management unit distributes synchronization signals to a synchronization distribution unit connected to receive the synchronization signals from the central synchronization

Response

Serial No. 09/175,522
Page 10

management unit, and the synchronization distribution unit distributes the synchronization signals to at least one network element. In Lemieux, synchronization information originates at a PSTN and received at a mobile switching center (equated to the central synchronization management unit of the Applicant's invention by the Examiner) and flows downstream through the clock distribution system to the local clock modules of base stations (equated to the synchronization distribution unit of the Applicant's invention by the Examiner). However, in Lemieux, the synchronization information originating at the local clock primary reference source of a mobile switching center and communicated downstream to the local clock modules of base stations is not communicated to the mobile station (equated to the network terminal of the Applicant's invention by the Examiner). As such, the invention of Lemieux, at least in this mode, also fails to teach, suggest or disclose "a central synchronization management unit for distributing synchronization signals" and "a synchronization distribution unit connected to receive synchronization signals from the central synchronization management unit and to distribute the signals to at least one network element" as claimed in at least the Applicant's claim 1.

As such and at least because the teachings of Lemieux do not teach, suggest or disclose "a central synchronization management unit for distributing synchronization signals" and "a synchronization distribution unit connected to receive synchronization signals from the central synchronization management unit and to distribute the signals to at least one network element" as taught in the Applicant's Specification and claimed in at least the Applicant's claim 1, the Applicant respectfully submits that the teachings and disclosure of Lemieux do not anticipate the Applicant's invention, at least with respect to claim 1.

Therefore, the Applicant submits that claim 1 is not anticipated by the teachings of Lemieux and, as such, fully satisfies the requirements of 35 U.S.C. § 102 and is patentable thereunder.

Likewise, independent claim 16 recites similar relevant features as recited in claim 1. As such, the Applicant submits that independent claim 16 is also not

Response

Serial No. 09/175,522
Page 11

anticipated by the teachings of Lemieux and also fully satisfies the requirements of 35 U.S.C. § 102 and is patentable thereunder.

Furthermore, dependent claims 2-15 and 17-21 depend either directly or indirectly from claims 1 and 16 and recite additional features therefor. As such and for at least the reasons set forth herein, the Applicant submits that dependent claims 2-15 and 17-21 are also not anticipated by the teachings of Lemieux. Therefore the Applicant submits that dependent claims 2-15 and 17-21 also fully satisfy the requirements of 35 U.S.C. § 102 and are patentable thereunder.

The Applicant reserves the right to establish the patentability of each of the rejected claims individually subsequently in prosecution.

B. 35 U.S.C. § 103

The Examiner rejected claims 2-3 under 35 U.S.C. § 103(a) as being unpatentable over Lemieux in view of Cheong et al. (U.S. Patent 6,477,154, hereinafter "Cheong"). The rejection is respectfully traversed.

Claims 2-3 depend either directly or indirectly from the Applicant's independent claim 1 and recite additional limitations thereof. The Examiner applied Lemieux to claims 2-3 as applied above for the rejections of claim 1. As argued above and for at least the reasons recited above, the Applicant submits that Lemieux fails to teach suggest or disclose the invention of the Applicant, at least with respect to claim 1. As such and at least because the teachings of Lemieux do not teach, suggest or disclose the Applicant's invention with respect to claim 1 as mentioned above, the Applicant respectfully submits that the teachings of Lemieux also do not teach suggest or disclose the Applicant's claims 2-3.

In addition, the Applicant respectfully submits that the teachings of Cheong alone, also do not teach, suggest or disclose the invention of the Applicant, at least with respect to independent claim 1 and dependent claims 2-3. More specifically, Cheong teaches a microcellular mobile communication system

Response
Serial No. 09/175,522
Page 12

which performs various functions such as a centralized management of resources, a capacity increase, a Base Station Transceiver System(BTS) miniaturization, a synchronization between micro base stations, a dynamic resource management, a softer handover between cells, a grouping and ungrouping of base stations in accordance with a traffic distribution. The microcellular mobile communication system of Cheong may increase the subscriber capacity, provide the high reliable service, extend the battery life of a personal station inducing low power communication and assure the radio channel capacity so that the radio multimedia service may be accomplished in the future, by maximizing the utility efficiency of radio frequency resource through cell miniaturization. (See Cheong, Abstract). However, there is absolutely no teaching, suggestion or disclosure in Cheong for "a central synchronization management unit for distributing synchronization signals" and "a synchronization distribution unit connected to receive synchronization signals from the central synchronization management unit and to distribute the signals to at least one network element" as claimed in at least the Applicant's claim 1.

Furthermore, the Applicant submits that there is absolutely no motivation or suggestion in either reference for the combination of Lemieux and Cheong to attempt to teach the invention of the Applicant. More specifically, there is no motivation or suggestion in Lemieux for the combination of the references. Likewise, Cheong does not expressly or impliedly motivate or suggest such a combination.

For prior art reference to be combined to render obvious a subsequent invention under 35 U.S.C. § 103, there must be something in the prior art as a whole which suggests the desirability, and thus the obviousness, of making the combination. Uniroyal v. Rudkin-Wiley, 5 U.S.P.S.Q.2d 1434, 1438 (Fed. Cir. 1988). The teachings of the references can be combined only if there is some suggestion or incentive in the prior art to do so. In re Fine, 5 U.S.P.S.Q.2d 1596, 1599 (Fed. Cir. 1988). **Hindsight is strictly forbidden! It is impermissible to use the claims as a framework to pick and choose among individual**

Response
Serial No. 09/175,522
Page 13

references to recreate the claimed invention Id. at 1600; W.L. Gore Associates, Inc. v. Garlock, Inc., 220 U.S.P.Q. 303, 312 (Fed. Cir. 1983).
(emphasis added)

Moreover, the mere fact that a prior art structure could be modified to produce the claimed invention would not have made the modification obvious unless the prior art suggested the desirability of the modification. In re Fritch, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992); In re Gordon, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984).

The Applicant further submits that even if there was a motivation or suggestion to combine (which the Applicant maintains that there is not), the teachings of Lemieux and Cheong, in any allowable combination, fail to teach, suggest or make obvious the Applicant's invention, at least with regard to independent claim 1 and in addition, with respect to claims 2-3, which depend from claim 1 and recite additional limitations therefor. That is, the teachings of Cheong fail to bridge the substantial gap between the Applicant's invention and the teachings of Lemieux. More specifically, the teachings of Lemieux and Cheong, alone or in any allowable combination, fail to teach, suggest or make obvious "a central synchronization management unit for distributing synchronization signals" and "a synchronization distribution unit connected to receive synchronization signals from the central synchronization management unit and to distribute the signals to at least one network element" as claimed in at least the Applicant's claim 1. That is, any allowable combination of Lemieux and Cheong does not teach or suggest the distribution of synchronization signals from a central synchronization management unit to a synchronization distribution unit connected to receive synchronization signals from the central synchronization management unit, wherein the synchronization distribution unit distributes the synchronization signals to at least one network element.

As such and for at least the reasons described above, the Applicant respectfully submits that neither the telecommunications network synchronization

Response
Serial No. 09/175,522
Page 14

taught in Lemieux nor the microcellular mobile communication system taught in Cheong, alone or in any allowable combination, renders obvious "a central synchronization management unit for distributing synchronization signals" and "a synchronization distribution unit connected to receive synchronization signals from the central synchronization management unit and to distribute the signals to at least one network element" as claimed in at least the Applicant's claim 1. As such and for at least the reason that Lemieux and Cheong, alone or in any allowable combination, fail to teach or suggest the invention of the Applicant with regard to claim 1, the Applicant further submits that the teachings of Lemieux and Cheong, alone or in any allowable combination, also fail to teach or suggest the invention of the Applicant with regard to claims 2-3, which depend from claim 1.

Therefore, the Applicant submits that claims 2-3, as they now stand, fully satisfy the requirements of 35 U.S.C. § 103 and are patentable thereunder.

The Applicant reserves the right to establish the patentability of each independent and dependent claim individually in subsequent prosecution.

C. 35 U.S.C. § 103

The Examiner rejected claims 4-10, 14 and 16-20 under 35 U.S.C. § 103(a) as being unpatentable over Lemieux in view of Cheong, and further in view of Moulton et al. (U.S. Patent 6,487,262, hereinafter "Moulton"). The rejection is respectfully traversed.

Claims 4-10, 14 and 17-20 depend either directly or indirectly from the Applicant's independent claims 1 and 16 and recite additional limitations thereof. The Applicant's claim 16 recites similar relevant features as recited in the Applicant's claim 1. The Examiner applied Lemieux and Cheong to claims 4-10, 14 and 16-20 as applied above for the rejections of claims 1 and 2-3. As argued above and for at least the reasons recited above, the Applicant submits that Lemieux and Cheong fail to teach suggest or disclose the invention of the Applicant, at least with respect to claim 1. As such and at least because the teachings of Lemieux and Cheong do not teach, suggest or disclose the

Response
Serial No. 09/175,522
Page 15

Applicant's invention with respect to claim 1 as mentioned above, the Applicant respectfully submits that the teachings of Lemieux and Cheong also do not teach suggest or disclose the Applicant's claim 16, which recites similar relevant features as the Applicant's claim 1. Even further, the Applicant respectfully submits that at least because the teachings of Lemieux and Cheong do not teach, suggest or disclose the Applicant's invention with respect to claims 1 and 16 for at least the reasons argued above, the Applicant respectfully submits that the teachings of Lemieux and Cheong also do not teach suggest or disclose the Applicant's claims 4-10, 14 and 17-20, which depend either directly or indirectly from the Applicant's claims 1 and 16.

In addition, the Applicant respectfully submits that the teachings of Moulton alone, also do not teach, suggest or disclose the invention of the Applicant, at least with respect to independent claims 1 and 16 and dependent claims 4-10, 14 and 17-20. More specifically, Moulton teaches a method of network synchronization wherein data is transmitted from a broadband network unit to devices on a residence downstream carrier frequency. In Moulton, upstream data is transmitted from on an upstream carrier frequency and the upstream data rate and the upstream carrier frequency are integer multiples of a sub-harmonic of a master clock. (See Moulton, Abstract). However, there is absolutely no teaching, suggestion or disclosure in Cheong for "a central synchronization management unit for distributing synchronization signals" and "a synchronization distribution unit connected to receive synchronization signals from the central synchronization management unit and to distribute the signals to at least one network element" as claimed in at least the Applicant's claims 1 and 16.

Furthermore, the Applicant submits that there is absolutely no motivation or suggestion in either reference for the combination of Lemieux, Cheong and Moulton to attempt to teach the invention of the Applicant. More specifically, there is no motivation or suggestion in Lemieux for the combination of the

Response
Serial No. 09/175,522
Page 16

references. Likewise, neither Cheong nor Moulton expressly or impliedly motivates or suggests such a combination.

For prior art reference to be combined to render obvious a subsequent invention under 35 U.S.C. § 103, there must be something in the prior art as a whole which suggests the desirability, and thus the obviousness, of making the combination. Uniroyal v. Rudkin-Wiley, 5 U.S.P.S.Q.2d 1434, 1438 (Fed. Cir. 1988). The teachings of the references can be combined only if there is some suggestion or incentive in the prior art to do so. In re Fine, 5 U.S.P.S.Q.2d 1596, 1599 (Fed. Cir. 1988). ***Hindsight is strictly forbidden. It is impermissible to use the claims as a framework to pick and choose among individual references to recreate the claimed invention*** Id. at 1600; W.L. Gore Associates, Inc., v. Garlock, Inc., 220 U.S.P.Q. 303, 312 (Fed. Cir. 1983). (emphasis added)

Moreover, the mere fact that a prior art structure could be modified to produce the claimed invention would not have made the modification obvious unless the prior art suggested the desirability of the modification. In re Fritch, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992); In re Gordon, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984).

The Applicant further submits that even if there was a motivation or suggestion to combine (which the Applicant maintains that there is not), the teachings of Lemieux, Cheong and Moulton, alone or in any allowable combination, fail to teach, suggest or make obvious the Applicant's invention, at least with regard to independent claims 1 and 16 and in addition, with respect to claims 4-10, 14 and 17-20, which depend from claims 1 and 16 and recite additional limitations therefor. That is, the teachings of Moulton fail to bridge the substantial gap between the Applicant's invention and the teachings of Lemieux and Cheong. More specifically, the teachings of Lemieux, Cheong and Moulton, alone or in any allowable combination, fail to teach, suggest or make obvious "a central synchronization management unit for distributing synchronization signals"

Response

Serial No. 09/175,522

Page 17

and "a synchronization distribution unit connected to receive synchronization signals from the central synchronization management unit and to distribute the signals to at least one network element" as claimed in at least the Applicant's claim 1 and claim 16. That is, any allowable combination of Lemieux, Cheong and Moulton does not teach or suggest the distribution of synchronization signals from a central synchronization management unit to a synchronization distribution unit connected to receive synchronization signals from the central synchronization management unit, wherein the synchronization distribution unit distributes the synchronization signals to at least one network element

As such and for at least the reasons described above, the Applicant respectfully submits that neither the telecommunications network synchronization taught in Lemieux nor the microcellular mobile communication system taught in Cheong nor the synchronization and downconversion taught in Moulton, alone or in any allowable combination, renders obvious "a central synchronization management unit for distributing synchronization signals" and "a synchronization distribution unit connected to receive synchronization signals from the central synchronization management unit and to distribute the signals to at least one network element" as claimed in at least the Applicant's claims 1 and 16. As such and for at least the reason that Lemieux, Cheong and Moulton, alone or in any allowable combination, fail to teach or suggest the invention of the Applicant with regard to claims 1 and 16, the Applicant further submits that the teachings of Lemieux, Cheong and Moulton, alone or in any allowable combination, also fail to teach or suggest the invention of the Applicant with regard to claims 4-10, 14 and 17-20, which depend either directly or indirectly from the Applicant's claims 1 and 16.

Therefore, the Applicant submits that claims 4-10, 14 and 16-20, as they now stand, fully satisfy the requirements of 35 U.S.C. § 103 and are patentable thereunder.

The Applicant reserves the right to establish the patentability of each independent and dependent claim individually in subsequent prosecution.

Response
Serial No. 09/175,522
Page 18

Applicant's Note

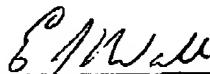
The Applicant would like to thank the Examiner for his suggestions regarding the allowability of claims 11-13, 15 and 21, but at this time the Applicant believes all of the claims in this application to be allowable.

Conclusion

Thus the Applicant submits that none of the claims, presently in the application, are anticipated under the provisions of 35 U.S.C. § 102 or obvious under the provisions of 35 U.S.C. § 103. Consequently, the Applicant believes that all these claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Jorge Tony Villabon, Esq. or Eamon J. Wall, Esq. at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,



Eamon J. Wall Attorney
Reg. No. 39,414

Dated: 3/17/04

CUSTOMER #26,291
MOSER, PATTERSON & SHERIDAN, LLP
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702
732-530-9404 - Telephone
732-530-9808 - Facsimile